S.B.CIVIL MISC. ARBITRATION APPLICATION NO.62/2006

M/s Shri Niwas Builders vs. State & Ors.

DATE OF ORDER : 4/5/2007

HON'BLE SHRI RAJESH BALIA, J.

Mr.R.S. Shekhawat, for the applicant.
Mr.L.R. Upadhaya, for the respondents.

Heard learned counsel for the parties and perused the application and reply submitted on behalf of the parties. The applicant had been awarded a contract dated 10/12/2002 for laying coal tar and surface improvement of Sirohi, Kotada, Kherwada and Dungarpur Road. The dispute having arisen between the parties in relation to execution of said work, the applicant has raised his claim against the respondents of damages amounting to Rs.35 lacs and required the respondents to refer the matter to arbitration in terms of clause 23 of the agreement. Having failed to secure response, the applicant served notice under Section 11 of the Act of 1996 for appointment of arbitrator within 30 days from the receipt of the notice to refer the dispute. Since respondents failed to respond to the notice, this application has been moved under Section 11 for appointment of arbitrator by the Chief Justice or his designate.

Respondents in their reply have only contested the validity

of the claim.

In the circumstances, since there is no dispute about existence of live dispute and existence of arbitration clause and failure on the part of the respondents to refer the dispute to the arbitrator in terms of arbitration clause, this application deserves to be allowed.

Accordingly, this application is allowed. Shir M.C.Singhvi, retired Additional Chief Engineer, P.W.D resident of Udaipur is appointed as sole arbitrator to whom the dispute shall be referred. The cost of arbitration and fees of arbitrator shall be as determined by the arbitrator himself.

(RAJESH BALIA), J.

Pankaj Baweja